IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

LA.App..No. 506 of 2004(D)

LAR.71/1996 of II ADDL.SUB COURT,TRIVANDRUM
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APPELLANT: RESPONDENT.

STATE OF KERALA.

BY GOVERNMENT PLEADER SRI K.V.MANOJKUMAR

RESPONDENT: CLAIMANT.

D.STEPHENSON, PUTTUPLAVIA VEEDU,
TAGORE ROAD, THRIKKANNAPURAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.S.WILLIAMS

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 16/10/2007 ALONG WITH LAAs. 734, 770 & 818/2004, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.Nos.506, 734, 770 & 818 of 2004

Dated: October 16, 2007

JUDGMENT

Kurian Joseph, J.

These are appeals filed against the common judgment in LAR Nos.71, 73, 76 and 72 of 1996 respectively on the file of the Sub Court, Thiruvananthapuram. There is also another LAR (LAR 74/1996) in the common judgment, but there is no appeal. In that view of the matter, the land value awarded in all these cases has become final as there is no appeal in one of the cases covered by the common judgment. That apart, on merits it is seen that the claimants had produced Ext.A1 document and on the basis of the report of the advocate commissioner and the evidence of AW.1, the property covered by Ext.A1 was compared by the Reference Court. On the basis of the comparison as above, it is thus stated in the award:-

> "From the mahazars prepared in these cases, from the note to award and from the evidence of AW1 it can be seen that the acquired lands are lying about 15 metres away from the Karamana River. It is true that the acquired lands are situated near the Thrikkannapuram Junction. But the land under Ext.A1 is not having that advantage. But at the same time the evidence of AW2 shows that the land under Ext.A1 is situated about 1 km. away from National Highway and ¾ km. away from Industrial Estate. So according to me the land under Ext.A1 is having a little

more importance than the acquired lands. The acquired lands in these cases are situated in Thirumala village and the land under Ext.A1 is situated in Nemom village. The distance between the acquired land and the land under Ext.A1 is not available and as per Ext.C1 commission report the distance is 1 ½ kms, if calculated after the bridge is completed. But the above distance noted in Ext.C1 commission report cannot be accepted. Considering the aforesaid aspects and also considering the time lag of about 3 months and 12 days between the 4(1) notification in these cases and the date of execution of Ext.A1, I think that 10% deduction can be allowed from the value shown in Ext.A1 for fixing the value of the acquired lands in these cases.

Thus we find that the fixation of market value by the Reference Court by reducing 10% value from that of Ext.A1, is a just and proper fixation. Therefore, we do not find any merit also. These appeals are accordingly dismissed.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE.

mt/-